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May 10, 1996

Ms. Mary L. Cottrell, Secretary  
Department of Public Utilities  
100 Cambridge Street, Room 1210  
Boston, MA 02202-0028

Re: D.P.U. 96-100

Dear Ms. Cottrell:

Please accept these late-filed comments in which WEPCO offers its preliminary assessment regarding the five restructuring plans filed in February as part of the Generic Proceeding D.P.U. 96-100.

WEPCO previously submitted comments and reply comments in the earlier restructuring docket, D.P.U. 95-30, and expects to participate in both the Generic Proceeding and Company-specific Adjudications, expanding on these themes, and others as they arise.

At this time, WEPCO limits its review to these key issues:

- 1) Initiate meaningful pilot programs as soon as possible
- 2) Offer direct access to all customers no later than 1/1/98
- 3) Provide basic or default service by suppliers other than the distribution company
- 4) Adjust the utility rate-of-return (ROR) on any commission-determined prudent, legitimate, and verifiable strandable investment to that of a risk-free investment yield
- 5) Support a direct, bilateral market structure
- 6) Cancel any Service Extension Discount (SED) tariffs currently on file
- 7) Insist on reciprocity for all participants in the new market

- 8) Control any and all incidents of abuse (or unfair exercise) of market power
- 9) Support appropriate direct access trials and innovative wheeling proposals
- 10) Correct the WEPCO address on the service list

WEPCO (a Delaware corporation with offices in New York, New Hampshire, Massachusetts, Illinois, New Jersey, and Washington, D.C.,) has been established to promote customer choice in retail electric markets and, in general, supports the restructuring proposal offered by the Division of Energy Resources (DOER). Several themes warrant additional comment, however.

- 1) Initiate meaningful pilot programs as soon as possible - We strongly endorse the DOER proposal to require utilities to offer direct access pilot programs for ten percent of each customer class by January 1997. Such trial programs (which WEPCO has consistently supported) will enable utilities, customers, suppliers, aggregators, regulators, and other market participants and observers to learn from these meaningful pilots. Most importantly, however, if the wholesale market is substantially developed without pilot programs, it is unlikely that the wholesale market will efficiently and effectively serve retail customer access. Pilot programs will provide the information needed to develop a wholesale market that truly serves the retail markets -- as it should. WEPCO is prepared to share from its wealth of experience gained from active pilot participation in New Hampshire, New York, and Illinois and pending pilot activities in other jurisdictions. These pilots should be as free as possible from administrative and bureaucratic constraints, allowing suppliers and customers to come together in an open market.
- 2) Inaugurate direct access for all customers no later than January 1, 1998 - While some may see this as ambitious, there are no fundamental reasons, either technical or legal, to delay direct access beyond this date. Any suggestion of a phase-in, where one class of customers is permitted direct access earlier than other classes, must not be permitted, as this creates too many situations of economic and political instability. This type of phase-in is probably politically unacceptable as well, as it will clearly disadvantage the residential class of customers.
- 3) Provide basic or default service by suppliers other than the distribution company - There is no a priori reason to let electric distribution companies serve as the default provider. WEPCO suggests a "default pool" where certified, cost-

competitive providers are randomly assigned to customers who, for whatever reason, choose not to choose. This will minimize the chance that a single default provider will charge non-competitive rates.

- 4) Adjust the utility rate-of-return (ROR) on any commission-determined prudent, legitimate, and verifiable strandable investment to that of a risk-free investment yield - Upon completion of the strandable investment debate, there may be some non-mitigated, legitimate, and verifiable investments for which utilities will be allowed cost recovery. These should then be considered nearly risk-free investments and thus earn a return commensurate with similar risk-free investments (e.g., long-term treasury bonds). A small risk premium (of no more than 100 basis points) may be determined appropriate to compensate for company-specific or market risks.
- 5) Support a direct, bilateral market structure - The DPU should assess the significant economic benefits which arise through bilateral trading for electricity transactions. These bilateral trades must be administered by an independent system operator (ISO) with no financial interest in the transaction to prevent preferential treatment or efforts to "game the system". The functions of the ISO should be analogous to those of air traffic controllers (ATCs) who have no interest in which airline does the most business or which lands first. An ATC's only concern is the safe, reliable operation of the competitive airline industry. This structure will clearly result in increased consumer choice of service and pricing options. Vendors will be free to offer whatever services and products customers desire. A bilateral marketplace is pro-competitive and will further on-going economic development in attracting and retaining businesses to the state. Lower electric costs and customer choice are enticements to business and residential customers to stay and expand within the Commonwealth.
- 6) Cancel any Service Extension Discount (SED) tariffs currently on file - Any and all SEDs (or similar tariffs offering nominal rate discounts in exchange for a long-term supply contract with a utility) currently offered should be deleted and no further approval granted for agreements filed subsequent to April 1, 1996, the date of the Commission's letter which deemed future special contracts as unreasonable.
- 7) Insist on reciprocity for all participants in the new market -In order to promote a level playing field, transmission access should be granted to all parties who participate in a restructured environment if, and only if, they offer comparable and reciprocal transmission access to their system. These non-jurisdictional entities may include municipal and cooperative utilities, interstate transmission and utility holding companies, and out-of-state and foreign utilities.

- 8) Control any and all incidents of abuse (or unfair exercise) of market power - The coming restructured market raises the specter of unfair vertical and horizontal market power and antitrust issues. These potential abuses may be related to a broad range of activities, including wholesale transactions between generation and transmission affiliates, between utility distribution companies and their sales/marketing subsidiaries, or lack of a truly independent system operator (ISO). All of these situations must be monitored closely and swift action taken by the appropriate agencies (e.g., US Department of Justice, Federal Trade Commission, Attorney General, Office of Consumer Affairs, etc.)
- 9) Support appropriate direct access trials and innovative wheeling proposals - In addition to the pilots advocated by DOER, we encourage the Commission to be receptive to wheeling requests conforming to Sections 211 and 212(h) of the Federal Power Act and approve transmission wheeling rates which do not involve issues related to stranded investment or exit fees.
- 10) Please revise the service list to show our correct address (modifying only the zip+4 to that of our street address, rather than our P.O. Box). The corrected address is as follows (noting that the phone, fax, and e-mail address remain the same):

Wheeled Electric Company (WEPCO)  
Attn: Paul Messerschmidt  
11 Beacon Street, Suite 525  
Boston, MA 02108-3006

1/617/557-4492 (vox)  
1/617/227-5215 (fax)  
e-mail: Paul@Wheeled-Electric.com

If you have any questions, please contact me.

Thank you,

Paul S. Messerschmidt

Director of Regulatory Affairs

c: Service List (D.P.U. 96-100)